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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,744	08/25/2003	Akira Sonobata	0505-1223P	1779
2292	7590	05/04/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			JOHNSON, VICKY A	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/646,744	Applicant(s) SONOBATA, AKIRA	
	Examiner Vicky A. Johnson	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/4/4 4/2/4 1/16/4</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 it is unclear what is meant by the limitation “without an end rockably supported by a fixed structure”.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 and 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Masahisa (JP 07151197), as best understood.

Masahisa discloses a chain tensioner provided with a tensioner arm comprising: an elastic band tensioner arm body curved toward the transmission chain (19); and a flexible tensioner shoe (20) for covering a front of the tensioner arm body and having a

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chain guide groove (18) to the front wherein the transmission chain is slidably fitted (see Fig 7); and a width of a middle in the longitudinal direction of the tensioner arm body is set to a smaller value relative to a width of each end of the arm body (see Fig 1), an arc-shaped cut-out is formed in alignment on both sides of the middle to set the width of the middle of the tensioner arm body to a small value (see Fig 1), said tensioner arm extends for a predetermined distance in engagement with the chain (see Fig 8).

6. Claims 1-8 and 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Simpson et al (US 6,612,952), as best understood.

Simpson et al disclose a chain tensioner provided with a tensioner arm comprising: an elastic band tensioner arm body (18) curved toward the transmission chain (2); and a flexible tensioner shoe (30) for covering a front of the tensioner arm body and having a chain guide groove (see Fig 2) to the front wherein the transmission chain is slidably fitted (see Fig 2); and a width of a middle in the longitudinal direction of the tensioner arm body is set to a smaller value relative to a width of each end of the arm body (see Fig 1), an arc-shaped cut-out is formed in alignment on both sides of the middle to set the width of the middle of the tensioner arm body to a small value (see Fig 1), said tensioner arm extends for a predetermined distance in engagement with the chain (see Fig 2), and a control arm (36) made of spring plate.

7. Claims 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Thomas et al (US 2004/0214672).

Thomas et al discloses a chain tensioner provided with a tensioner arm comprising: an elastic band tensioner arm body (12) curved toward the transmission chain; and a flexible tensioner shoe (20) for covering a front of the tensioner arm body and having a chain guide groove (see Fig 2A) to the front wherein the transmission chain is slidably fitted; and at least one hole (30) formed in a middle in the longitudinal direction of the tensioner arm body (see Fig 1B), said tensioner arm extends for a predetermined distance in engagement with the chain (inherent).

8. Claims 9 -12 are rejected under 35 U.S.C. 102(e) as being anticipated by Simpson et al (US 6,612,952).

Simpson et al discloses a chain tensioner provided with a tensioner arm comprising: an elastic band tensioner arm body (18) curved toward the transmission chain; and a flexible tensioner shoe (30) for covering a front of the tensioner arm body and having a chain guide groove (see Fig 2) to the front wherein the transmission chain is slidably fitted; and at least one hole (unnumbered, see Fig 1) formed in a middle in the longitudinal direction of the tensioner arm body (see Fig 1), said tensioner arm extends for a predetermined distance in engagement with the chain (inherent), and a control arm (36) made of spring plate.

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/646741. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are obvious variants in the breath and scope of the claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

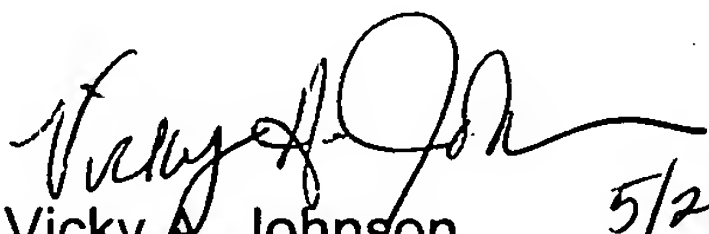
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (571) 272-7106. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on (571) 272-7099. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Vicky A. Johnson 5/2/05
Examiner
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